

**BOISE, MONDAY, JUNE 2, 2008 AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**EUCLID AVENUE TRUST, TRUSTEE  
SERVICES, INC., TRUSTEE,**

**Plaintiff-Appellant,**

**v.**

**CITY OF BOISE.**

**Defendant-Respondent.**

Docket No. 33974

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Hon. Cheri C. Copsey, District Judge.

Neal & Uhl, PLLC, Boise, for appellant.

Cary B. Colaianni, Boise City Attorney's Office, Boise, for respondent.

On October 4, 2005, the Euclid Avenue Trust (“Euclid”), moved three “skinny” houses onto three adjacent lots on Euclid Avenue. Euclid’s agent had submitted applications for building permits to the City of Boise seven days prior, but the City had not yet acted on the applications. The City contended the applications were incomplete because two of the three lacked parcel numbers, but had not yet communicated its rejection of the applications in writing. The City issued Euclid a Notice to Abate on October 6, contending the houses were a nuisance due to the lack of building permits. On October 9, the City passed and adopted an Emergency Ordinance that imposed stricter requirements for building permits for substandard residential lots like Euclid’s. Euclid eventually complied with the new requirements, but while negotiations with the City were ongoing, it filed a civil complaint with the district court. The Complaint requested judicial review of the City’s rules for building permits and of the City’s nuisance designation for Euclid’s property. It sought to invalidate the Emergency Ordinance and requested damages, and it sought a Writ of Mandate requiring the City to accept Euclid’s original applications. A later Verified Amended Complaint added a due process claim. In several stages, the district court disposed of all Euclid’s claims on summary judgment. Euclid appeals.

**BOISE, MONDAY, JUNE 2, 2008 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**ED TERRAZAS and JACKIE WESELOH,** )

)

**Petitioners-Appellants,** )

)

**v.** )

**Docket No. 34106**

)

**BLAINE COUNTY, IDAHO, by and through** )

**its duly elected Board of Commissioners,** )

)

**Respondent.** )

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Blaine County. Honorable Robert J. Elgee, District Judge.

Robertson & Slette, PLLC, Twin Falls, for appellants.

Blaine County Prosecutor's Office, Hailey, for respondent.

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Respondent Blaine County Board of County Commissioners (Board) denied Appellants Ed Terrazas and Jackie Weseloh's (Applicants) short plat application to subdivide their property on East Fork Road into four lots. The Board determined that, in two of the four lots in the proposed NoKaOi subdivision, the planned area of disturbance impermissibly encroached upon the Mountain Overlay District (MOD). Pursuant to the Local Land Use Planning Act and the Idaho Administrative Procedures Act, Applicants petitioned the district court for judicial review of the Board's denial of their subdivision application. The district court affirmed the decision of the Board holding that: (1) the Board was not bound by the recommendation of the Planning and Zoning Administrator that the area of disturbance was outside the boundary of the MOD; (2) the Board's decision denying the subdivision application was not arbitrary, capricious, or without a reasonable basis in law or fact; (3) the Board did not violate Applicants' due process rights; (4) application of the doctrine of estoppel was not warranted by the facts of the case; (5) the MOD ordinance was not unconstitutionally void for vagueness; and (6) Applicants were not entitled to attorney fees. Applicants then appealed to this Court.